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July 18, 2016

Hon. Joseph F. Bianco  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

RE: United States v. Phillip A Kenner and Tommy C. Constantine  
Docket Number: 13-607 (JFB)

Dear Judge Bianco:

On July 20, 2016, commencing at 8:30 a.m. and concluding around 12:00 p.m., I have a previously scheduled medical procedure and, accordingly, will be unavailable at 11:00 a.m. for purposes of the defendant's motion for the appointment of new counsel. I will be available, however, on that date at 1:00 p.m. or later.

As far as the defendant's motion is concerned, I have always and will continue to exercise independent professional judgment in the representation of my client. As far as the content of the defendant's motion is concerned, I agree that no meaningful attorney-client relationship presently exists and that the rift is irreparable as expressed by him. Since we are approaching a critical phase of the prosecution involving the defendant's sentencing and my objections to the pre-sentence report in which a Fatico hearing is demanded (Docket Entry # 381), the defendant's motion for the immediate appointment of new counsel ought to be granted.

I will defer to the judgment of the Court, the government, the court personnel, trial witnesses called by the prosecution and defense, as well members of the public who attended the trial, with respect to my performance in representing the defendant in the first "wire fraud trial" of my career as mentioned by the defendant. Over the years, I have represented a number of clients convicted of "wire fraud" upon guilty plea and comprehend the relevant law and defenses, as well as the prosecutorial and investigatory techniques employed by the government in such cases. Thirty-five years of trial experience serve as the foundation for my professional knowledge and skill which I diligently employed in representing the defendant for the past two and one half years commencing with pre-trial motion practice, a lengthy trial and the current post-trial proceedings.

Finally, I regret that I am unable to complete my appointment as CJA counsel for the defendant due to his motion and assure the Court that I will be available to meet with new counsel

to expedite the transition. Thank you for Your Honor's consideration of my arguments on behalf of the defendant throughout this matter and the courtesy extended to me when adjournments were requested due to other court and client commitments.

Very truly yours,

*Richard D. Haley*

RICHARD D. HALEY

cc: All counsel of record via ECF